IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of:	Confirmation No.: 4090
Namit JAIN	Examiner: RADTKE, Mark A.
Serial No.: 10/648,577	Group Art Unit No.: 2165
Filed on: August 25, 2003	

For: DIRECT LOADING OF OPAQUE TYPES

CERTIFICATE OF TRANSMISSION VIA EFS-WEB

Pursuant to 37 C.F.R. 1.8(a)(1)(ii), I hereby certify that this correspondence is being transmitted to the United States Patent & Trademark Office via the Office electronic filing system in accordance with 37 C.F.R. §§1.6(1)(4) and 1.8(a)(1)(i)(C) on the date indicated below and before 9:00 PM PST.

Submission date: October 12, 2007 by /ChristianANicholes#50266/

MS Appeal Brief-Patents
Commissioner for Patents
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REPLY BRIEF UNDER 37 CFR § 1.193(b)(1)

Sir:

This is in response to the Examiner's Answer mailed August 21, 2007. The shortened statutory period runs until October 21, 2007.

REMARKS

1. In the Examiner's Answer, in connection with the rejection of Claim 1, the Examiner apparently argues that if a database server is a software server application, then the database server is logically external to the database server—that is (puzzlingly), logically external to itself. The Appellants respectfully submit that it is impossible for something to be external to itself, even in a logical sense, and even if that thing is implemented in software. The Appellants also note that an Oracle database server, to which the Examiner apparently alludes, is a database server, and therefore is not external to a database server.

The Examiner points to Skinner's col. 16, lines 60-62, as alleged evidence that Skinner's "program" (apparently, what the Examiner calls Skinner's client 300) invokes the creation of database tables. However, this portion of Skinner describes the creation of database tables using passive voice ("In step 404, database tables **are created** from the schema metadata by formulating 'create table' commands"), without ever stating which entity—a client or a database server—creates the database tables. Skinner does **not** say that anything other than a database server creates database tables. Because it is well known that database servers usually are the entities that create database tables, it should be assumed, in the absence of Skinner's express statement otherwise, that, in Skinner's approach, a database server, and not some entity external to the database server, creates the database tables.

Additionally, even if Skinner's client 300 were the entity that formulated the "create table" commands, Skinner still fails to disclose, teach, or suggest that Skinner's client 300 (the alleged "program" of Claim 1) **implements** the routines that actually create the database tables. As is discussed in the Appellants' Appeal Brief, Claim 1 requires, *inter alia*, that the "routines," in response to whose invocation the "program" performs the "creating," must be "**implemented by**" that same "program." Nothing that the Examiner has written indicates that anything other than a database server would implement such routines.

2. In the Examiner's Answer, in connection with the rejection of Claim 1, the Examiner additionally argues that, since a client tier creates a class definition, the client tier (apparently in addition to the database server) is really the entity that creates the database tables. However, Claim 1 recites that the "program"—which must be "external to the database server"—performs the creating and populating. If "creating" and "populating" are read as "causing to create" and "causing to populate," then the intended meaning of these terms is changed. The Appellants intend Claim 1 to mean that the "program" actually performs the creating and the populating. If the definition of each action in a claim is interpreted so broadly as to include any action that might influence the causation of the performance of that action in some way, then there is truly no way to express, in the English language, that a particular component is performs the action rather than merely participating in the causation of that action. The Appellants propose that, in the absence of qualifiers such as "directly" or "indirectly," the terms "creating" and "populating" should be read, by default, as meaning "directly creating" and "directly populating" instead of "directly or indirectly creating" and "directly or indirectly populating." When a claim recites that an entity performs an action, sound claim construction policy dictates that the claim should be read as meaning that the entity actually performs that action itself rather than that entity indirectly causes some other entity to perform that action. Otherwise, when claims are drafted, those claims will need to be complicated unnecessarily by extraneous qualifiers (such as "directly") which ought to be implied, and which, themselves, are subject to the same sort of meaning-twisting

that the Examiner attempts to impose on the terms "creating" and "populating" in the present claim.

3. Although it is true that Skinner's approach writes data to a database, Claim 1 requires the generation of a data stream that (a) is based on the "data structure" and (b) conforms to a format of data blocks of the database. The Examiner apparently analogizes the "database tables" created in Skinner's step 404 to the "data structure" of Claim 1. The Appellants wish to point out that it makes no sense to generate a data stream that conforms to a format of a database's data blocks based on database tables that have already been created in the database.

4. The Appellants agree that in an object-oriented environment, all objects of a class share the same routines but may have different data stored in the data members. This does **not** mean that any of the "MetaMethod" instances describe routines **in response to whose invocation** the program that **implements** those routines (a) **creates** a data structure that has elements that correspond to attributes of the type; and (b) **populates** the elements with attribute-correspondent values that are specified in the data. On the contrary, the vector structures described in Skinner, column 19, lines 61-67, appear to describe features of a class (e.g., attributes and methods of that class) rather than routines which, when invoked, create and populate the data structure recited in Claim 1.

5. The Appellants agree that a database table and a vector of references can both be associative structures. However, this does **not** mean that Skinner discloses that the **addresses** of the "methods" to which the Examiner refers are associated, via such an associative structure, with a "**type**." The cited section of Skinner says nothing about associating method addresses with a type within an associative structure (such as a database table or a vector).

6. As is discussed in the Appeal Brief, Claim 17 depends from Claim 1, and further recites "said program registering, with said loader application, said one or more routines, which are not implemented by said loader application." The Examiner analogizes the "program" of Claim 17 to Skinner's client tier. The Examiner analogizes the "loader application" of Claim 17 to Skinner's application tier. There does not appear to be any part of Skinner that indicates that the client tier ever "registers" routines or methods with the application tier. There does not appear to be any part of Skinner that indicates that the client tier ever "registers," with the application tier, routines that the application tier does not implement. There does not appear to be any part of Skinner that indicates that the client tier ever registers, with the application tier, routines (a) that the client tier implements and (b) in response to whose invocation the client tier creates and populates a data structure. The portions of Skinner to which the Examiner refers do not appear to say anything about such registration between the client and application tiers.

For at least the above reasons, and those set forth in the Appeal Brief previously filed, Appellants respectfully submit that the imposed rejections are **not** viable, and respectfully solicit the Honorable Board to **reverse** each of the imposed rejections.

Respectfully submitted,

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